

an action of trover was brought by the appellee by his next friend, who in fact was his guardian, regularly appointed and qualified, and it was objected that the latter and not the infant was the party to sue. But the Court held that the right of possession of the chattel in dispute, which is the gist of the action in trover, was common both to the guardian and infant, the right in the first instance resulting from the special property in the chattel by virtue of the guardianship, and in the second from the general property in the real owner, and that the action might be brought either by the general or special owner. In *Hay v. Conner*, 2 H. & J. 347, the right of the infant to sue in trover by *prochein ami* who was also affirmed, where the mother, the *natural guardian*, was before the Court, the natural guardian in the absence of a statutory guardian being invested with as full a power to sue as the other, *Fridge v. State*, 3 G. & J. 103.

It may be observed also that the minority of females for the purposes of suit, extends to the age of twenty-one years, see *Davis v. Jacquin*, *supra*; *Keller v. Donnelly*, 5 Md. 211; *Fridge v. State*, *supra*.⁶

As to the rule in Equity, see *Alexander's Chancery Pr.* 211; *Hunter v. Hatton*, 4 Gill, 115; *Richards v. Swann*, 7 Gill, 306; *Barnes v. Compton*, 8 Gill, 391; *Higgins v. Horwitz*, 9 Gill, 341.⁷

⁶ *Hussey v. Ryan*, 64 Md. 426, 437.

⁷ *Bush v. Linthicum*, 59 Md. 345, 356; *Biddinger v. Wiland*, 67 Md. 359; *Willis v. Hodson*, 79 Md. 327; *Prince de Bearn v. Winans*, 115 Md.—. Gen. Eq. Rules 9 and 10, Code 1911, Art. 16, secs. 146, 147; *Miller's Equity*, secs. 10 *et seq.*

CAP. XXII.

Waste maintainable by one Tenant in common against another.

Whereas two or mo do hold Wood, Turfland, or Fishing, or other such thing in common, wherein none knoweth his several, and some of them do Waste against the Minds of the other, an Action may lie by a Writ of Waste; **124** *(2) and when it is come unto Judgment, the Defendant shall choose either to take his part in a Place certain, by the Sheriff, and by the View, Oath, Cum duo vel plures teneant boscum turbariam piscariam vel alia hujusmodi in communi absque hoc quod aliquis sciat suum separale & aliquis eorum faciat vastum contra voluntatem alterius moveatur actio per breve de Vasto & habeat defendens cum ad iudicium venerit electionem capiendi partem suam in certo loco per vicecomitem & visum & sacramentum ac assignation-